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Establishment of the International Criminal Court

Report of the Sixth Committee

Rapporteur: Mr. Mahmoud Mohmed **Al-Naman** (Saudi Arabia)

I. Introduction

1. The item entitled "Establishment of the International Criminal Court" was included in the provisional agenda of the fifty-sixth session of the General Assembly pursuant to Assembly resolution 55/155 of 12 December 2000.

2. At its 3rd plenary meeting, on 19 September 2001, the General Assembly, on the recommendation of the General Committee, decided to include the item in its agenda and to allocate it to the Sixth Committee.

3. The Sixth Committee considered the item at its 25th to 27th meetings, on 12 and 13 November 2001. The views of the representatives who spoke during the Committee's consideration of the item are reflected in the relevant summary records (A/C.6/56/SR.25-27).

4. At the 25th meeting, on 12 November, the Legal Counsel made a statement in compliance with paragraph 9 of General Assembly resolution 55/155 (see A/C.6/56/SR.25).

II. Consideration of draft resolution A/C.6/56/L.21

5. At the 27th meeting, on 19 November, the representative of the Netherlands introduced and orally corrected a draft resolution entitled "Establishment of the International Criminal Court" (A/C.6/56/L.21).

6. At the same meeting, the Secretary of the Committee made a statement regarding the financial implications of the draft resolution.

7. With regard to paragraphs 9 and 10 of the draft resolution dealing with the meeting of the Assembly of States Parties to the Rome Statute, the Committee had

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before it the note by the Secretariat concerning the responsibilities entrusted to the Secretary-General (A/C.6/56/L.25).

8. Also at the 27th meeting, the representative of the United States of America made a statement indicating that the United States would not participate in the decision on the draft resolution (see A/C.6/56/SR.27).

9. At the same meeting, the Committee adopted draft resolution A/C.6/56/L.21, as orally corrected without a vote (see para. 10).

III. Recommendation of the Sixth Committee

10. The Sixth Committee recommends to the General Assembly the adoption of the following draft resolution:

Establishment of the International Criminal Court

The General Assembly,

Recalling its resolutions 47/33 of 25 November 1992, 48/31 of 9 December 1993, 49/53 of 9 December 1994, 50/46 of 11 December 1995, 51/207 of 17 December 1996, 52/160 of 15 December 1997, 53/105 of 8 December 1998, 54/105 of 8 December 1999 and 55/155 of 12 December 2000,

Noting that the Rome Statute of the International Criminal Court was adopted on 17 July 1998,[1] and taking note of the Final Act of the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court done at Rome on 17 July 1998,[2]

Recalling the United Nations Millennium Declaration adopted at the Millennium Assembly,[3] in which heads of State and Government stressed the importance of the International Criminal Court,

Noting in particular that the Conference decided to establish a Preparatory Commission for the Court,[4] and that the Commission held two sessions in 2001, from 26 February to 9 March and from 24 September to 5 October,

Bearing in mind the mandate of the Preparatory Commission, as set out in resolution F adopted by the Conference,[4] with regard to the preparation of the proposals for practical arrangements for the establishment and coming into operation of the Court,

Recalling, with regard to the work of the Preparatory Commission and related working groups, the adoption by the Commission on 5 October 2001 of the report on its sixth to eighth sessions,[5] containing the draft texts of the Relationship Agreement between the Court and the United Nations, the Financial Regulations, the Agreement on the Privileges and Immunities of the Court and the Rules of Procedure of the Assembly of States Parties,

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[1] A/CONF.183/9.

[2] A/CONF.183/10.

[3] See resolution 55/2.

[4] See A/CONF.183/10, annex I.

[5] PCNICC/2001/1 and Adds.1-4 (forthcoming).

Noting the progress made in regard to the necessary arrangements for the commencement of the functions of the International Criminal Court in order to ensure its effective operation, and taking note in particular of the statement of the Minister for Foreign Affairs of the Netherlands[6] to the Preparatory Commission at its eighth session, on the preparatory work that the Government of the Netherlands was undertaking for the establishment of the Court,

Recognizing the continuing need for making available adequate resources and secretariat services to the Preparatory Commission in order to enable it to discharge its functions efficiently and expeditiously,

Noting in particular that one hundred and thirty-nine States have signed the Statute and that the number of States that have deposited their instruments of ratification has grown significantly,

Taking into consideration the probability that the first meeting of the Assembly of States Parties will be held by September 2002 and article 112, paragraph 1, of the Rome Statute of the International Criminal Court,[1]

1. *Reiterates* the historic significance of the adoption of the Rome Statute of the International Criminal Court;[1]

2. *Calls upon* all States that have signed the Rome Statute of the International Criminal Court to consider ratifying or acceding to it, as appropriate, without delay, and encourages efforts aimed at promoting awareness of the results of the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court and of the provisions of the Statute;

3. *Welcomes* the important work accomplished by the Preparatory Commission for the International Criminal Court in the completion of a great number of parts of its mandate under resolution F, and notes in this respect in particular the importance of the growing participation in the work of the working group on the crime of aggression;

4. *Requests* the Secretary-General to reconvene the Preparatory Commission, in accordance with resolution F, from 8 to 19 April and from 1 to 12 July 2002, to continue to carry out the mandate of that resolution and, in that connection, to discuss ways to enhance the effectiveness and acceptance of the Court;

5. *Also requests* the Secretary-General to make available to the Preparatory Commission secretariat services, including the preparation of working documents if so requested by the Commission, to enable it to perform its functions;

6. *Further requests* the Secretary-General to invite, as observers to the Preparatory Commission, representatives of organizations and other entities that have received a standing invitation from the General Assembly, pursuant to its relevant resolutions,[7] to participate in the capacity of observers in its sessions and

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[6] PCNICC/2001/INF/3.

[7] Resolutions 253 (III), 477 (V), 2011 (XX), 3208 (XXIX), 3237 (XXIX), 3369 (XXX), 31/3, 33/18, 35/2, 35/3, 36/4, 42/10, 43/6, 44/6, 45/6, 46/8, 47/4, 48/2, 48/3, 48/4, 48/5, 48/237, 48/265, 49/1, 49/2, 50/2, 51/1, 51/6, 51/204, 52/6, 53/5, 53/6, 53/216, 54/5, 54/10, 54/195, 55/160 and 55/161.

work, and also to invite as observers to the Commission representatives of interested regional intergovernmental organizations and other interested international bodies, including the International Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda;

7. *Notes* that non-governmental organizations may participate in the work of the Preparatory Commission by attending its plenary and its other open meetings, in accordance with the rules of procedure of the Commission, receiving copies of the official documents and making available their materials to delegates;

8. *Encourages* States to make voluntary contributions to the trust funds established pursuant to General Assembly resolutions 51/207 and 52/160, the mandates of which were expanded pursuant to Assembly resolution 53/105, towards meeting the costs of the participation in the work of the Preparatory Commission of the least developed countries and of those developing countries not covered by the trust fund established pursuant to resolution 51/207;

9. *Requests* the Secretary-General to undertake the preparations necessary to convene, in accordance with article 112, paragraph 1, of the Rome Statute,[1] the meeting of the Assembly of States Parties to be held at United Nations Headquarters upon the entry into force of the Statute in accordance with article 126, paragraph 1, of the Statute;

10. *Decides* that expenses that may accrue to the United Nations as a result of the implementation of the request contained in paragraph 9 as well as expenses resulting from the provision of facilities and services for the meeting of the Assembly of States Parties and any consequent follow-up shall be paid in advance to the Organization, for which an appropriate mechanism will be set up in the near future;

11. *Notes* that the United Nations and the Secretary-General may participate, without the right to vote, in the work of the Assembly of States Parties;

12. *Requests* the Secretary-General to invite, as observers to the meeting of the Assembly of States Parties, representatives of intergovernmental organizations and other entities that have received a standing invitation from the General Assembly, pursuant to its relevant resolutions,[7] to participate in the capacity of observers in its sessions and work, and also to invite as observers to the Assembly representatives of interested regional intergovernmental organizations and other international bodies invited to the Rome Conference or accredited to the Preparatory Commission for the International Criminal Court;

13. *Notes* that non-governmental organizations invited to the Rome Conference, registered to the Preparatory Commission for the International Criminal Court or having consultative status with the Economic and Social Council of the United Nations whose activities are relevant to the activities of the Court may participate in the work of the Assembly of States Parties in accordance with agreed rules;

14. *Requests* the Secretary-General to report to the General Assembly at its fifty-seventh session on the implementation of the present resolution;

15. *Decides* to include in the provisional agenda of its fifty-seventh session the item entitled "Establishment of the International Criminal Court".